

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

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**Case: BA2005072**

Variance

Hearing Date:

August 17, 2005 (continued from the July 13, 2004 hearing)

Agenda Item:

9

Supervisory District:

4

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**Applicant/Owner:**

Clifton Hammonds

**Request:**

**Variances to permit:**

- 1) An existing single-family residence to setback 30 feet from the front (east) property line where 40 feet is the minimum required; and
- 2) An existing detached accessory structure (shed) to setback 18 feet from the side (north) property line where 30 feet is the minimum required in the Rural-43 zoning district.

**These variances are requested from the following Zoning Ordinance Section(s):**

- 1) Section 503, Article 503.4.1
- 2) Section 503, Article 503.4.2

**Site Location:**

19320 W. Jomax Road – Jomax Road and 193<sup>rd</sup> Avenue (Wittmann area)

**Site Size:**

83,043-square feet (1.91 acres)

**Existing Zoning:**

Rural-43

**Current Use:**

Residential

**Citizen**

**Support/Opposition:**

None known

## Staff

**Recommendation:** Deny

### Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43  
North: Rural-43  
South: Rural-43  
East: Rural-43  
West: Rural-43

### Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence  
North: Single-family residence  
South: Jomax Road then race track  
East: 193<sup>rd</sup> Avenue then single-family residence  
West: Single-family residence

### Background:

3. **Circa 1960:** A single-family residence was constructed on the subject site; this structure is now utilized as a storage building (20' x 30') to the west of the current residence.
4. **March 16, 2001:** The subject property was transferred to the current property owner under a Warranty Deed recorded under docket number **2001-0208507**.
5. **June 2, 2003:** Violation case **V200300762** was initiated due to a complaint received by the Code Enforcement Division for the construction of multiple structures without a zoning clearance or building permit. The Code Enforcement Division later verified this complaint.
6. **December 22, 2003:** The applicant applied for an as-built building permit (**B200315439**) to allow the replacement of 200-amp service on the subject site.
7. **May 3, 2005:** Board of Adjustment case **BA2005072** was applied for by the property owner.

## Findings:

8. **Maricopa County Department of Transportation:** No response at the time this report was written.
9. **Flood Control District:** No objection to the requests (see attached memo).
10. **Environmental Services Department:** No objection to the requests (see attached memo).

## Site Analysis:

11. The subject site is located on the west side of 193<sup>rd</sup> Avenue and directly north of Jomax Road in the Wittmann area. The subject site is a rectangular shaped lot measuring 276.83 feet in width and 299.98 feet in depth. The site encompasses approximately 83,043 square feet or 1.91-acres. The definition of Front Lot Line in the Maricopa County Zoning Ordinance requires the eastern property line of the subject site to be the front yard, while the south property line is considered to be street side.
12. Access to the site is provided from a gravel driveway with a gate that connects to Jomax Road, which is currently a two-land road. There is also a second point of entry on the northeastern corner of the site via another gate. The subject site is surrounded on all sides by 4-foot high wire mesh fencing. Portions of the east, south and west property lines are also enclosed by shrubs and trees. The remainder of the site is relatively flat with sparse vegetation in the center of the site.
13. As noted on the site plan, there is currently a 3,800-square foot single-family residence with an attached two-car garage located on the southeastern portion of the site. There are four other detached structures on the site at this time. These structures include a 864-square foot (24' x 36') garage located in the northwestern corner of the site, a 144-square foot (12' x 12') shed located in the northwestern portion of the site. The two separate remaining detached structures are located in the center of the site and include a 256-square foot (16' x 16') shed located in the center of the site and a 955-square foot detached storage building that once was a single family residence. Staff notes that the two detached structures located in the northwestern corner of the site, in addition to the current single-family residence, were built after the applicant took ownership of the subject site in March of 2001. All three structures were constructed without the benefit of building permits.
14. The existing 3,800-square foot single-family residence in the southeast portion of the site and the 144-square foot detached shed in the northwestern portion of the site do not meet setback requirements, and are the focus of this report.
15. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	<b>30-feet</b>
Rear Yard Setback	40-feet	204-feet
Side Yard Setback	30-feet	<b>18-feet</b>
Street Side Setback	75-feet**	109-feet
Maximum Height	30-feet/2 stories	20-feet/1 story
Minimum Lot Area	43,560-sq. ft.	83,043-sq. ft.
Minimum Lot Width	145-feet	276.83-feet
Lot Coverage	15%	7.2%

\*Standards indicated in **bold** do not meet minimum base zoning standards.

\*\*Includes a 55-foot ROW dedication for Jomax Rd.



Aerial photograph of the subject site and surrounding areas.



Aerial photograph of the subject site taken in December of 2000, prior to applicant taking ownership of the property.

### **Land Use Analysis:**

16. The site, which is zoned Rural-43, is located in the Wittmann area which consists of properties with single-family residences on large lots with a rural character. The subject property itself has a primary residence and four separate accessory building on it; this does not appear to be out of character for the immediate area. The adjoining properties located to the west and northwest also have a various number of structures and residences located on them. Development in this area is typically occurring through the lot splitting process.

17. The subject site is located less than a mile to the west of US Highway 60/Grand Avenue. Along the western side of US Highway 60 are parcels which are zoned C-2. There is a large race track complex that is located directly to the south of the subject site. The majority of the immediate area, most notably to the west of the subject site is owned by the State of Arizona and remains vacant and undeveloped at this time. The subject site is located within the White Tanks/Grand Avenue Area Plan and with the majority of the surrounding area being designated as large lot residential (1-2 d.u./ac.). The City of Surprise is located one-mile to the southeast of the subject site.
18. Staff research indicates that there have been no Board of Adjustment cases heard within one-mile of the subject site.

### **Plan Analysis:**

19. There are two separate variance requests for existing structures located on the subject site. One of the requests is for standard side yard setbacks and one request is for a front yard setback. These requests came about when staff received a complaint pertaining to the subject site. Staff notes that there are un-permitted structures on the site, including the single-family residence, which was constructed in 2001 by the applicant without the benefit of building permits. Staff notes that the residence as drawn on the site plan measures approximately 3,800-square feet as calculated by staff.
20. The first request is to permit an existing single-family residence to setback 30 feet from the front (east) property line where 40 feet is the minimum required. Staff notes that the eastern property line is considered to be the front yard as this property line is more than 15 feet shorter than the southern property line, which abuts Jomax Road. The residence, as drawn on the site plan, measures approximately 3,800-square feet. The residence associated with this variance request was constructed by the applicant in 2001, without the benefit of building permits or a zoning clearance. Additionally, there are no physical or topographical hardships that impact the location of the structure as the site is flat and is well over the required one-acre in size at 1.91-acres. There is no chance of re-orienting the front yard of the site from the east property line to the south property line, as the applicant notes on the site plan that the single-family residence setbacks back 82-feet from the centerline of Jomax Road. Jomax Road is designated as a section line road which would require a 95-foot front yard setback, with the 40-foot front yard setback in addition to the 55-foot right-of-way dedication for Jomax Road. Additionally, this would place the 864-square foot detached garage located in the northwestern corner of the site, into violation of the potential 30-foot side yard setback, which would then be located on the western property line. Staff is recommending denial of variance request #1.

21. The second request is to permit an existing detached accessory structure (shed) to setback 18 feet from the side (north) property line where 30 feet is the minimum required. The shed structure measures 144-square (12' x 12') feet in size and is located on the northwestern portion of the site. Staff notes that the applicant created the need for this variance request as the detached shed was constructed by the applicant without the benefit of building permits or a zoning clearance. There are no physical or topographical hardships that impact the structure and the shed associated with this request could have originally been constructed in an allowable location on subject site. Therefore, staff is recommending denial of variance request #2.
22. Staff notes that there is essentially no legal basis from which either of the two variance requests on the site could be recommended for approval. The applicant constructed both the existing single-family residence and the existing detached shed without obtaining a building permit or zoning clearance. There are no physical or topographical hardships associated with the subject site that would justify granting a variance. Additionally, the subject site is nearly twice the size that it is required to be at 1.91-acres in size, which should have allowed a satisfactory amount of area for which to construct a new residence and detached storage structures and still meet the zoning requirements of the subject property. Staff must recommend denial of both variance requests.

**Recommendation:** (BA 2005072)

23. Staff recommends **denial** of these variance requests based on the following:
  - Granting these requests may confer a special privilege upon the applicant.
  - These requests conflict with the intent of the Zoning Ordinance.
  - There are no physical or topographical hardships associated with the site.
  - These variance requests are self-created.
24. If the Board finds that a reasonable use of the property cannot be made without these variances, then these requests may be approved, subject to the following stipulations:
  - a) General compliance with the site plan stamped received July 27, 2005.
  - b) The applicant shall obtain as-built permits for all un-permitted structures within 120 days of Board approval.
  - c) Within three (3) months of the issuance of the variance, a new application for an onsite wastewater disposal system must be submitted to the Maricopa County Environmental Services Department (MCESD) for review and approval.

nlw

**Attachments:** Case Map BA2005072  
Zoning Map  
Assessor Map  
Site Plan  
Application  
Supplemental Questionnaire  
Environmental Services Memo  
Flood Control Memo  
Photos (3 pages)